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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/792,295	03/02/2004	Aaron L. Ehrensberger	10801-52US	3850

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AKIN GUMP STRAUSS HAUER & FELD L.L.P.
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2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

EXAMINER

ALHIJA, SAIF A

ART UNIT	PAPER NUMBER
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2128

DATE MAILED: 12/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/792,295

Applicant(s)

EHRENSBERGER ET AL.

Examiner

Saif A. Alhija

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-21 have been presented for examination.

Claim Objections

2. Claims 4, 6-7, 11, 13-14, 18, and 20-21 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim. This can be shown by the specification of the instant application which states "Resources may include electronic documents (e.g., Word documents), electronic document images (e.g., PDF documents), application program components that execute from within other applications (e.g., Java Applets), animations (e.g., Flash animation), and web pages (e.g., HTML documents)." Teaching of a fundamental or specific teaching to indicate that the type of resource further limits the parent claim is not provided in the specification or the claims. It is clear from the Detailed Description of the invention, which contains one or two sentences directed at the embodiment of the invention, that there is a lack of teaching and the use of "For example" also indicates intended use. The appendix also is merely sample source code.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

MPEP 2106 recites:

The claimed invention as a whole must accomplish a practical application. That is, it must produce a "useful, concrete and tangible result" State Street 149 F.3d at 1373, 47 USPQ2d at 1601-02. A process that consists solely of the manipulation of an abstract idea is not concrete or tangibles. See In re

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Warmerdam, 33 F.3d 1354, 1360, 31 USPQ2d 1754, 1759 (Fed.Cir. 1994). See also Schrader, 22 F.3d at 295, 30 USPQ2d at 1459.

3. Claims 1-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

i) The claims recite associating and restricting resources and as such do not produce a useful, concrete, and tangible result. The claims appear to be a mere association and manipulation resources.

ii) Claims 8-14 recite a "means for" and based on the specification this can encompass software per se. Software per se is not statutory according to MPEP Section 2106.01.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1-21 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

i) The specification does not contain an enabling teaching of the invention. Pages 4-5 consist of a Detailed Description, which contains a mere listing of different code portions. It is difficult to ascertain any disclosed enabling teaching of the claims.

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5. **Claims 1-21 are rejected** under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

i) The specification does not contain a written description of the invention. Pages 4-5 consist of a Detailed Description which contains a mere listing of different code portions. It is difficult to ascertain any disclosed teaching describing the provided claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 1-21 are rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

i) The claims recite associating resources with resource sets as well as associating resource sets with one or more simulations. It is unclear what types of resources are associated as well as what types of simulations they are being associated with. For example, it would appear that any co-simulation would read on the claims as presented since they contain resources associated with a plurality of simulations. As such the claims are rendered vague and indefinite.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Oh et al.**

“Compound Service Scheduling with Run-Time Adaptation in Real-Time Multiprocessor

Distributed Systems”, hereafter referred to as Oh.

8. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Mehra et al.**

“Synthetic Workload Generation for Load,

Balancing Experiments”, hereafter referred to as Mehra.

9. Claims 1-21 are rejected under 35 U.S.C. 102(a) as being clearly anticipated by **Goscinski et al.**

“Resource Management in Large Distributed Systems”, hereafter referred to as Goscinski.

10. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by **Connell et al.**

U.S. Patent No. 5,339,417, “Computer system with two levels of guests”, hereafter referred to as

Connell.

Regarding Claim 1:

The reference discloses A method of managing a plurality of resources that are used in simulations, the method comprising: (a) associating at least some of the resources with two or more different resource sets; and (b) associating one or more resource sets with one or more different simulations.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

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(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 2:

The reference discloses The method of claim 1 wherein step (b) further comprises associating one or more resource sets with two or more different simulations.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 3:

The reference discloses The method of claim 1 wherein the one or more different simulations are executed by a plurality of users, the resources including public and private resources, the method further comprising: (c) restricting private resources to selected users.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 4:

The reference discloses The method of claim 1 wherein one or more of the resources are electronic document images. **(The type of resource is an intended use and therefore carries no**

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patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 5:

The reference discloses The method of claim 1 wherein one or more of the resources are application program components that execute from within other applications.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 6:

The reference discloses The method of claim 1 wherein one or more of the resources are animations. (The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 7:

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The reference discloses The method of claim 1 wherein one or more of the resources are web pages. (The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 8:

The reference discloses An apparatus for managing a plurality of resources that are used in simulations, the method comprising: (a) means for associating at least some of the resources with two or more different resource sets; and (b) means for associating one or more resource sets with one or more different simulations.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 9:

The reference discloses The apparatus of claim 8 wherein the means for associating associates one or more resource sets with two or more different simulations.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

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(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 10:

The reference discloses The apparatus of claim 8 wherein the one or more different simulations are executed by a plurality of users, the resources including public and private resources, the apparatus further comprising: (c) means for restricting private resources to selected users.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 11:

The reference discloses The apparatus of claim 8 wherein one or more of the resources are electronic document images. **(The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)**

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 12:

The reference discloses The apparatus of claim 8 wherein one or more of the resources are application program components that execute from within other applications

(Oh. Page 120, Section 2.1. Page 123, Section 4)

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(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 13:

The reference discloses The apparatus of claim 8 wherein one or more of the resources are animations. (The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 14:

The reference discloses The apparatus of claim 8 wherein one or more of the resources are web pages. (The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 15:

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The reference discloses An article of manufacture for managing a plurality of resources that are used in simulations, the article of manufacture comprising a computer-readable medium holding computer-executable instructions for performing a method comprising: (a) associating at least some of the resources with two or more different resource sets; and (b) associating one or more resource sets with one or more different simulations.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 16:

The reference discloses The article of manufacture of claim 15 wherein step (b) further comprises associating one or more resource sets with two or more different simulations.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 17:

The reference discloses The article of manufacture of claim 15 wherein the one or more different simulations are executed by a plurality of users, the resources including public and private resources, the computer-executable instructions performing a method further comprising: (c) restricting private resources to selected users.

(Oh. Page 120, Section 2.1. Page 123, Section 4)

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(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 18:

The reference discloses The article of manufacture of claim 15 wherein one or more of the resources are electronic document images. **(The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)**

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 19:

The reference discloses The article of manufacture of claim 15 wherein one or more of the resources are application program components that execute from within other applications

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 20:

The reference discloses The article of manufacture of claim 15 wherein one or more of the resources are animations. **(The type of resource is an intended use and therefore carries no**

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patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Regarding Claim 21:

The reference discloses The article of manufacture of claim 15 wherein one or more of the resources are web pages. (The type of resource is an intended use and therefore carries no patentable weight. The type of resource does not further limit the parent claim)

(Oh. Page 120, Section 2.1. Page 123, Section 4)

(Mehra. Page 12, Left Column. Page 11, Trap Insertion)

(Goscinski. Abstract. Page 7-9 Introduction)

(Connell. Column 4, Lines 10-20, 29-43. Column 8, Lines 35-49. Column 9, Line 21-31)

Conclusion

8. All Claims are rejected.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saif A. Alhija whose telephone number is (571) 272-8635. The examiner can normally be reached on M-F, 11:00-7:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamini Shah can be reached on (571) 272-2279. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SAA

November 11, 2006

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